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KLARQUIST SPARKMAN, LLP  
ONE WORLD TRADE CENTER, SUITE 1600  
121 S.W. SALMON STREET  
PORTLAND OR 97204

In re Application of	:
Richard B. Harkness	:
Serial No.: 10/648,412	: SUSPENSION OF ACTION
Filed: August 25, 2003	:
Attorney Docket No.: 2747-66693	:

This is in reply to the petition under 37 CFR 1.103 to further suspend action on this application for a period of six months, filed January 16, 2004, and supplemental petition for suspension filed May 12, 2004. The delay in acting on this petition is regretted.

The petitions in the above identified application were not timely forwarded for decision. However the effect in the delay is to have afforded applicant a suspension of prosecution as requested. The basis of the request is related to an application that was pending before the Court of Appeals for the Federal Circuit having an identical issue before it for decision. A decision was rendered on August 16, 2004, pursuant to which a request for *en banc* hearing was filed. That request has now been denied. The decision of the Court was to return the application to the Office for further fact finding. In view of this action and essential affirming of the Office position, suspension of prosecution in this application is now not deemed appropriate. Any fact finding required in this application as a result of the Court decision should be made during further prosecution.

In view of the above applicant's petition for suspension is **DENIED**.

The application will be forwarded to the examiner for further action not inconsistent with this decision.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number.

*Jasemine C. Chambers*

Jasemine C. Chambers  
Director, Technology Center 1600